



**U.S. Department of Justice**

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March 14, 2023

**VIA ECF**

The Honorable Richard M. Gergel  
U.S. District Court for the District of  
South Carolina  
J. Waties Waring Judicial Center  
83 Meeting Street  
Charleston, SC 29401

Re: *In re Aqueous Film-Forming Foams Prods. Liab. Litig.*, No. 2:18-mn-02873 (D.S.C.) – EPA Issues Notice of Proposed Rulemaking for Maximum Contaminant Levels Under the Safe Drinking Water Act

Dear Judge Gergel,

As the Court may recall, during the June 2019 Case Management Conference, the Court invited the parties to submit significant developments that may relate to the AFFF multi-district litigation as they occur. *See* Hr’g Tr. at 25:7-20 (June 21, 2019), ECF No. 129.

Today, the U.S. Environmental Protection Agency (“EPA”) issued a Notice of Proposed Rulemaking (“NPRM”) entitled, “PFAS National Primary Drinking Water Regulation Rulemaking.”<sup>1</sup> The NPRM requests public comment on a number of actions the EPA may take.

*First*, the EPA proposes to set individual Maximum Contaminant Levels (“MCLs”) of four parts per trillion (also known as nanograms per liter or ng/L) for perfluorooctane sulfonic acid, PFOS, and perfluorooctanoic acid, PFOA. An MCL is an enforceable regulatory level for public drinking water systems established as close as is feasible to the Maximum Contaminant Level Goal (“MCLG”), taking costs into consideration. *See* 42 U.S.C. § 300g–1(b)(4)(B). EPA proposes to set the MCLG at zero for PFOS and PFOA.

*Second*, the EPA proposes to regulate the mixture of hexafluoropropylene oxide dimer acid and its ammonium salt, HFPO-DA or GenX Chemicals; perfluorobutane sulfonic acid, PFBS; perfluorononanoic acid, PFNA; and perfluorohexane sulfonic acid, PFHxS, using a Hazard Index approach. For these PFAS, water systems would use an established approach called a hazard index calculation, defined in the proposed rule, to determine if the combined levels of these PFAS pose a potential risk.

The rule is available at Docket ID No. EPA-HQ-OW-2022-0114, at [www.regulations.gov](http://www.regulations.gov). Comments must be received on or before 60 days after publication of the NPRM in the Federal Register, which has not yet occurred.

Respectfully submitted,

/s/ Christina M. Falk

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cc: Counsel of Record (*via ECF*)  
Attachment